

REMARKS

Claims 1 - 63 were pending as of the issuance of the subject Office Action. Claims 3, 9, 11, 13 - 15, 19, 23, 29, 35 and 39 were withdrawn from consideration and are canceled. Claims 1, 2, 4 - 8, 10, 12, 16 - 18, 20 - 22, 24 - 28, 30 - 34, 36 - 38, 40 - 47 were addressed in the subject Office Action and stand rejected; claims 48 - 63 were also pending but were not addressed. Claims 10; 17; 28/27; 30/24, 25, 26; 31/24, 25, 26; 33/32; 34/33; 38/37/36/22, 25; 44/20 and 59/52 are now canceled; new claims 64 - 75 are added herewith.

Claims 1 and 21 are presently amended in response to grounds of rejection advanced in the Office Action. Claims 6 - 8, 10, 12, 16, 18, 26 - 28, 30, 32 - 34, 36 - 38, 42, 47, 55 - 58 and 60 are amended so that expressions therein have proper antecedent bases in their respective base claims and/or to remedy a few typographical errors.

Claim 43 and claim 45 are amended to be in independent form because those claims are believed to be allowable without the present amendments to their respective base claims, for reasons discussed below.

Rejection of Claims 1 - 20, 43, 44 and 47 under 35 U.S.C. §101

The above-captioned claims stand rejected under §101 as allegedly being drawn to non-statutory subject matter, the Examiner asserting that the claims fail to satisfy the two-pronged machine-or-transformation test, citing U.S. Supreme Court precedents. The stated ground of rejection is respectfully traversed on two grounds. First, the rejected claims have been amended to clearly state that they involve the use of a "machine," i.e., a server operating over the internet, as indicated in the application as filed at page 6 line 8 - page 7 line 6 and page 14 - 15. Thus, the claims satisfy the machine-or-transformation test.

Furthermore, the Examiner's citation of Supreme Court rulings on this issue omits the most recent and pertinent ruling, *Bilski v. Kappos*, 561 U.S. ____ (2010), in which the Court clearly stated that the machine-or-transformation test is not adequate for identifying non-statutory subject matter. Therefore, even if the claims were considered to fail that test, such failure would not establish that the claims were drawn to non-statutory subject matter.

Rejection of Claims 1, 6, 7, 12, 20, 21, 26 and 27 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being obvious over Perre et al. (U.S. Patent Application publication No. 20040024707) in view of Li et al. (U.S. Patent Application publication No. 20030004850). The Examiner asserts that Perre et al. generally disclose the features recited in independent claims 1 and 21 except for the sending of invitations to potential participating partners, and that Li et al. disclose the sending of invitations and that it would be obvious to combine the sending of invitations into the disclosure of Perre et al. and thus arrive at the claimed invention.

Claim 1 and claim 21 are now amended to state that invitations are sent from a *plurality* of establishing partners, and that the method and system include receiving, *from at least one member or participating partner*, acceptances of participation *in a plurality* of contemporaneous incentive programs. These features are nowhere disclosed or suggested by either of the cited references. Li et al. show only a system in which a buyer tenders a single offer (i.e., makes a bid) in response to a single seller's offer at any given time. In short, the system disclosed by Li et al. only allows acceptance of offers on a one-to-one basis, one bidder to one supplier in a single transaction.

In contrast, claim 1 and claim 21 now define a method and system which include receiving, from at least one participating partner, acceptances for a plurality of contemporaneous incentive programs. Thus, the claimed method and system embody a one-to-many participation relationship between a participating partner and at least one establishing partner, while encompassing the establishment of a plurality of such relationships among participating partners. Nowhere do the cited references suggest such a method, and in view of the types of transactions described in these references, it is not clear how the one-to-one methods disclosed therein could be modified to accommodate a one-to-many arrangement as now defined in claim 1. Only the Applicant has conceived, disclosed and now claims such a method and system. Accordingly, the stated ground of rejection is respectfully traversed.

Rejection of Claims 2, 4, 5, 22, 24, 25, 32, 34, and 40 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable over Perre et al. in view of Li et al. and in view of Walker et al. (U.S. Patent Application publication No. 200300064788). However, all of these claims depend from base claims 1 and 21, which are allowable for reasons stated elsewhere herein, so this ground of rejection is believed to be moot.

Rejection of Claims 8, 28, 33, 41 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable over Perre et al. in view of Li et al. and Ariff et al. (U.S. Patent Application publication No. 2003/0187802). However, all of these claims depend from base claims which are allowable for reasons stated elsewhere herein, so this ground of rejection is believed to be moot.

Rejection of Claims 10, 30 and 31 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable over Perre et al. in view of Li et al. and in view of D'Antoni et al. (U.S. Patent Application publication No. 2003/0139996). However, all of these claims depend from base claims which are allowable for reasons stated elsewhere herein, so this ground of rejection is believed to be moot.

Rejection of Claims 16 and 36 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable in view of Perre et al. in view of Li et al. and in view of Marshall (U.S. Patent Application publication No. 2002/0116266). However, both of these claims depend from base claims which are allowable for reasons stated elsewhere herein, so this ground of rejection is believed to be moot.

Rejection of Claims 17, 18, 37, 38, 42 and 47 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable over Perre et al. in view of Li et al. and in view of Magowan et al. (U.S. Patent Application publication No. 2005/0144075). However, claim 17 is canceled and the other claims depend from

base claims which are allowable for reasons stated elsewhere herein, so this ground of rejection is believed to be moot.

Rejection of Claims 43 – 46 under 35 U.S.C. §103

The above-captioned claims stand rejected under §103 as allegedly being unpatentable over Perre et al. in view of Li et al. and in view of Shaya et al. (U.S. Patent Application publication No. 2002/0161664). However, claims 43 and 45 (both now in independent form) include a feature nowhere shown or suggested by any cited prior art reference: the establishing party of an incentive program and a participating party are in the same corporate entity. This allows responsible persons within a single corporate entity to offer others in that entity a way to generate savings within that entity. Nowhere is such a concept even suggested in the cited prior art. Accordingly, claim 43 and claim 45 are believed to define a nonobvious patentable distinction over the applied references and the stated ground of rejection is respectfully traversed.

Claims 44 and 46 are allowable at least because they depend from base claims which are allowable for reasons stated herein, so this ground of rejection is believed to be moot.

Claims 48 – 63

The Applicant respectfully points out that the above-identified claims were entered with the Applicant's paper filed April 20, 2010, but were not addressed in the subject Office Action. Examination of these claims is respectfully requested.

New Claims 64 - 67

New claim 64 finds support at page 6 line 16 – page 7 line 6 of the application as filed.

New claim 65 finds support at page 17 lines 5 - 12 of the application as filed.

New claim 66 finds support at page 12 line 16 – page 13 line 6 of the application as filed.

New claim 67 finds support at page 14 of the application as filed.

Claims 64 – 67 are all allowable at least because they depend from an allowable base claim.

New Claims 68 and 69

New independent claims 68 and 69 are similar to claims 1 and 21, respectively prior to the amendments entered herewith, but they include language directing the performance indicators to a participant's performance in a truckload transportation marketplace, as described on page 14 of the application as filed. In contrast, Perre et al. were addressing the mechanics and economics of credit card processing, and Li et al. were addressing on-line auctions. Neither reference address a truckload transportation marketplace or derives from an industry whose logistics and economics have demonstrable analogy to participants' performance a truckload transportation marketplace. Therefore, claims 68 and 69 are believed to define patentable subject matter.

New Claims 70 and 71

New claim 70 finds support at page 14 of the application as filed.

New claim 71 finds support at page 17 lines 5 - 12 of the application as filed.

These claims are allowable at least for the reasons that their base claim is allowable.

New Claims 72 and 73

New independent claims 72 and 73 are similar to claims 1 and 21, respectively prior to the amendments entered herewith, but they include a feature nowhere shown or suggested in any of the cited prior art references, i.e., that the performance of a participating party which is the basis for a reward or penalty under an incentive program is performance in relation to a party who is not the establishing party of the incentive program. This feature is disclosed at least in paragraph the application as filed at page 6 lines 1 – 3 and page 9 lines 14 - 17. The systems disclosed in the applied references only relate to direct transactions between two parties. Nowhere does the prior art suggest that an incentive program offered by an establishing party and entered into by a participating party be based on the participating party's interaction with a third party. Thus, claims 72 and 73 are believed to be directed to patentable subject matter.

New Claims 74 and 75

New claim 74 is similar to original claim 37 but is written to depend from claim 1 and is allowable because claim 1 is allowable. New claim 75 is similar to original claim 7 but is written to depend from claim 52 and is allowable because claim 52 is allowable.

The Applicant respectfully requests reexamination and reconsideration in view of the foregoing amendments and remarks.

Any fees that may be necessary to maintain the pendency of the present application may be charged to the undersigned attorney's Deposit Account No. 50-4380.

The Examiner is invited to contact the undersigned should the Examiner deem it advantageous to further advance prosecution of this application.

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